

c) Admitted that his step-son had taken out permits for jobs with Respondent's permission but maintained that he knew his step-son was capable of doing the job correctly and according to code;

d) Argued that the address on record with the Board was his home address, that his prison address was only a temporary address, and that he received all correspondence addressed to him by the Board at that address;

e) Reiterated that he will take the required continuing education program "whenever it is possible ... to do so";

f) Argued that he was not given the opportunity to respond to the allegations against him and that the Board already made a decision to revoke without giving him the chance to be heard or to seek legal counsel.

The conduct for which Respondent was convicted is conduct which raises serious concerns by the Board as to whether such an individual should have a master plumbing license whereby he may enter private homes without supervision. The crime does thus relate to the nature of the occupation for which the license is issued.

Respondent admits that he "read [the application for license renewal for the period 1997-1999] and signed it ". (emphasis added). That application included a negative response to the question of whether Respondent had been convicted of a crime. The Board cannot accept that this misrepresentation occurred innocently. While it is true that Respondent did respond affirmatively to the same question in the next renewal application purportedly signed by Respondent on July 27, 1999, the Board will not infer from this that Respondent innocently answered the question erroneously in 1997. The facts, such as the conduct of the step-son in the intervening period, may give rise to other inferences as to what moved Respondent to answer the question accurately in 1999. The Board need not draw any inferences, but may act solely on the signed application by

Respondent and upon its assessment as to Respondent's credibility with respect to his claim that the error was innocent.

In his letter of November 22, 1999 to the Board, Respondent admitted that he had not completed the required continuing education which should have been fulfilled prior to the application for renewal in 1999, signed by Respondent on July 27, 1999 . From his letter postmarked on or about April 27, 2000, the Board may infer that, although an additional five months had elapsed since the November 1999 letter, Respondent has still not completed his continuing education requirement, which normally is fulfilled by taking a five hour course in one sitting at a cost averaging approximately one hundred dollars.

Respondent admits that he permitted his step-son to use his license although he does not clearly acknowledge that these jobs were performed while Respondent was incarcerated. Nonetheless, for the entire period in issue, Respondent was incarcerated. The Board cannot accept "supervision" to be adequate when it was purportedly exercised while Respondent was incarcerated in a State prison in Camden and the unlicensed employee was working in Plainfield. For the same reason, among others, the Board cannot accept that the mere fact that Respondent, while incarcerated, may have received mail addressed to him at the South Plainfield address , excuses him from the duty to give the Board the information that he was incarcerated in State prison for an extended period of time. While service of documents upon the licensee is one of the reasons for the requirement that licensees advise the Board of changes of address, there are other reasons as well. For example, the Board would want to know whether someone purportedly supervising a licensee in Plainfield is actually living in a far off state. The Board believes that Respondent was engaged in an overall pattern of conduct intended to mislead the Board as to the true situation in which Respondent and his step-son were involved.

Respondent argues that he was not given the opportunity to respond to the charges nor to seek legal counsel. However, Respondent has, in fact, submitted his six page written response in

a timely manner. That response has been carefully reviewed by the Board. Respondent also had ample opportunity in the thirty days he was given to obtain legal assistance.

Respondent does not contest that there exists a criminal conviction and that an eight year sentence was imposed. (He does maintain that he was not guilty; however, the Board may rely on the criminal conviction to find a violation pursuant to N.J.S.A. 45:1-21(f).) Respondent does not contest that he signed the application for renewal of his master plumber license dated June 20, 1997, but maintains he did not read the contents. The Board has no persuasive reason to accept this explanation; it was only more than two years later that Respondent answered a similar question accurately, and there may have been other reasons why Respondent decided to answer truthfully in this subsequent application to the Board. Therefore, the Board has grounds to find that, pursuant to N.J.S.A. 45:1-21(a), Respondent obtained the renewal of his certification for the period 1997-1999 by fraud, deception or misrepresentation. Respondent does not deny that he was aware that his step-son was taking out permits; indeed, he states he gave his step-son his permission to do so. Given that Respondent was in prison at the time, this conduct constituted Respondent's enabling his step-son to engage in the practice of master plumbing without a license, and that, therefore, Respondent committed professional misconduct pursuant to N.J.S.A. 45:1-21(e). It also appears that Respondent admits that, as of April 27, 2000, he has not completed continuing education requirements and is therefore in violation of N.J.S.A. 45:1-21(h) in that Respondent failed to fulfill continuing education requirements as required by N.J.S.A. 45:14C-18.1 et seq., an act administered by the Board. Based on the admissions with respect to the conviction and 1997 application for renewal alone, Respondent's submissions fail to raise material facts in dispute such as would make an evidentiary hearing necessary. The Board would have adequate grounds based upon these findings to impose the penalties imposed by this order. Moreover, the entirety of the submissions by Respondent raise no such material facts to make necessary an evidentiary hearing as to any of the findings of fact and conclusions of law made herein by the Board.

Based upon the information and documentation available to the Board and based upon the response of respondent, the Board makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Respondent is a licensed master plumber in the State of New Jersey and has been a licensee at all times relevant hereto.

2. Indictment No. 00792-05-92 in this matter, filed in Middlesex County on May 12, 1992, alleged that, on or about March 2, 1991, Respondent committed an act of sexual penetration upon B.P., a child less than 13 years of age.

3. On February 7, 1997, a judgment of conviction was entered against Respondent; Respondent was found to have committed aggravated assault and battery, in violation of N.J.S.A. 2C:14-2a, sexual assault, in violation of N.J.S.A. 2C:14-2b, and endangering the welfare of a child, in violation of N.J.S.A. 2C:24-4a.

4. Following the convictions, Respondent appealed. As stated by Respondent in his communication of April 27, 2000 to the Board, the first degree aggravated assault charge was reversed on appeal but the other charges were upheld. He was sentenced to eight (8) years in state prison with a five (5) year mandatory minimum; Respondent was released from custody from Riverfront State Prison, Camden, New Jersey on October 5, 1999. (The provisional order indicated that the expiration date of the mandatory minimum sentence was February 19, 2001, based upon information from the Department of Corrections; however, subsequent information indicated that there had been a recalculation based upon time served and that Respondent was released on October 5, 1999.)

5. An application for renewal of master plumber license for the renewal period 7/1/97-6/30/99, submitted to the Board and purportedly signed by Respondent on June 20, 1997 indicated Respondent's address as 182 Daniel St., South Plainfield, New Jersey; the response to the question on that application as to whether Respondent had been "arrested, charged, or convicted for the violation of any law or regulation since [his] last renewal" was "no". Respondent has admitted in his correspondence of April 27, 2000 to the Board that he signed that application.)

6. Geoffrey Pridgeon, who is Respondent's step-son and who is not a licensed master plumber, utilized Respondent's master plumber's seal #5788 on or about March 31, 1998 to obtain a municipal plumbing permit.

7. An application for renewal of master plumber license for the renewal period 7/1/99-6/30/01, submitted to the Board and purportedly signed by Respondent on July 27, 1999 gave no indication of a change of Respondent's address from 182 Daniel St., South Plainfield, New Jersey; the response to the question on that application as to whether Respondent had "been convicted of a crime" was "yes".

8. In a letter received by the Board on or about November 18, 1999, and purportedly signed by Respondent, Respondent responded to the Board's questions as to his convictions without indicating his incarceration.

9. In a letter received by the Board on November 22, 1999, and purportedly signed by Respondent, Respondent admitted that he had not completed the statutorily required continuing education requirement, and stated: " I do entend [sic] to comply with the requirements as soon as it is possible for me to do. At present it is impossible for me to do so at present because of health problems, as well as other problems beyond my control." As of April 27, 2000, Respondent had not yet fulfilled his education requirements which should have been fulfilled prior to renewal of his license in 1999.

CONCLUSIONS OF LAW

The above factual findings provide grounds for the revocation of his license to practice master plumbing in New Jersey as follows:

1. Pursuant to N.J.S.A. 45:1-21(f) in that the crimes of which Respondent was convicted are crimes of moral turpitude and relate adversely to the practice of master plumbing.
2. Pursuant to N.J.S.A. 45:1-21(a) in that Respondent obtained the renewal of his certification for the period 1997-1999 by fraud, deception or misrepresentation.
3. Pursuant to N.J.S.A. 45:1-21(h) in that Respondent failed to fulfill continuing education requirements as required by N.J.S.A. 45:14C-18.1 et seq., an act administered by the Board.
4. Pursuant to N.J.S.A. 45:1-21(b) in that Respondent has, in his correspondence with the Board, engaged in dishonesty, fraud, deception, misrepresentation or false pretense.
5. Pursuant to N.J.S.A. 45:1-21(e) in that Respondent has committed professional misconduct; his correspondence with the Board and his failure to reveal his conviction and imprisonment enabled another to engage in the practice of master plumbing without a license, in that the Board could have taken action to have the pressure seal returned to the Board.
6. Pursuant to N.J.S.A. 45:1-21(e) in that Respondent has, in his correspondence with the Board, and in his failure to reveal his imprisonment and change of address, violated N.J.A.C. 13:45C-1.3(a)7 and therefore, pursuant to N.J.A.C. 13:45C-1.4, has committed professional misconduct.
7. Pursuant to N.J.S.A. 45:1-21(h) in that Respondent has, in his correspondence with the Board, and in his failure to reveal his imprisonment and change of address, violated N.J.A.C. 13:45C-1.3(a)7 and N.J.A.C. 13:32-3.3(a)1, regulations administered by the Board.

8. No material discrepancies are raised through the submission by Respondent in response to the provisional order, and the Board is not persuaded that the submitted materials merit further consideration and no further evidentiary hearing is required.

ACCORDINGLY, IT IS on this 27th day of June, 2000,

ORDERED that:

1. Respondent's license to practice master plumbing in the State of New Jersey be and hereby is revoked.

2. Any practice of master plumbing in this State shall constitute grounds for a charge of unlicensed practice.

3. Respondent shall, upon demand by a representative of the Board, surrender his plumbing license and his master plumber's seal.

NEW JERSEY STATE BOARD OF EXAMINERS
OF MASTER PLUMBERS

By Mark McManus
Mark McManus
Board President